

BETTY T. YEE, BOARD MEMBER STATE BOARD OF EQUALIZATION

Serving the 8.5 million Californians of the First Equalization District,
comprised of 21 counties along the northern and central California
coast, including the entire San Francisco Bay Area.

VOLUME V, ISSUE II

APRIL - JUNE 2011



To learn more about services
provided by the
State Board of Equalization,
please call my office or
visit my web site at:
www.boe.ca.gov/members/yee

SAN FRANCISCO
BOARD MEMBER'S OFFICE
455 Golden Gate Avenue,
Suite 10500
San Francisco, CA 94102
Office: 415-557-3000
Fax: 415-557-0287

SACRAMENTO
BOARD MEMBER'S OFFICE
450 N Street, MIC: 71
Sacramento, CA 95814
Office: 916-445-4081
Fax: 916-324-2087



QUARTERLY E-NEWSLETTER

Welcome to the summer edition of my e-newsletter. As of the July 1st production of this edition, California heads in to the 2011-12 fiscal year beginning today with the Governor just having signed the State Budget.

This past quarter indicates that California's modest recovery is still underway, with the rise in retail sales a positive sign of economic growth. However, while the state's revenue has increased, the Legislature and the Governor still had to make some tough decisions as they worked to enact a State Budget plan.

As the Governor worked with lawmakers on reaching agreement on the Budget and considering other provisions such as pension and regulatory reforms, local governments in California are making tough decisions on public employee pensions. Many cities have proposed November ballot measures or negotiated agreements that would cap pension benefits, raise retirement ages, and require greater contributions from employees.

California's housing market has declined from 2010. This may be attributed in part to the expiration of the homebuyer tax credits last year. Today, the market is having a difficult time standing on its own in the absence of stronger job growth and consumer confidence. Thus far, low mortgage rates and lower home prices are not enough to overcome the concern some potential buyers have that prices could fall more. Other would-be buyers are unemployed or underemployed and/or can not qualify for a loan.

In response to California's double-digit unemployment rate, the United States Department of Labor announced California will receive \$838.7 million in federal unemployment funds under the American Recovery and Reinvestment Act. These funds will help pay unemployment benefits and deliver employment services to Californians who are unemployed or underemployed.

Finally, during these uncertain economic times, it is important to make available, resources that may be of assistance to California individuals and businesses. I invite you to visit both my website and the Board of Equalization's (BOE's) website for resources and information that may be of assistance to you.

Sincerely,

BETTY T. YEE

IN MEMORIAM ~ MATTHEW K. FONG

NOVEMBER 20, 1953 - JUNE 1, 2011

On June 1st, California lost a remarkable public servant. Former State Treasurer Matthew (Matt) K. Fong passed away after a courageous battle with cancer. Having served as California's 29th State Treasurer and a former member of the State Board of Equalization, Matt was a respected attorney, dedicated military officer, and devoted husband to his wife Paula and father and friend to his children Jade and Matthew. In addition, Board Member Yee reflects, "To me,

Matt was a role model who was so gracious and generous with his advice and counsel. I will always remember him for encouraging me to pursue elective office." Ms. Yee was among the elected officials who attended the community memorial service for Matt in Whittier on June 18th, where hundreds gathered to celebrate Matt's life. "Matt will be remembered by many for approaching everything in life with principle, integrity, and a smile," Ms. Yee notes. "He will be missed."



CALIFORNIA ECONOMIC UPDATE

EMPLOYMENT OUTLOOK REMAINS MIXED

During this difficult economic period, California's employment outlook continues to produce mixed results this quarter. According to the Employment Development Department, more than 2.1 million Californians remain jobless, and one out of three Californians have been unemployed for a year or more. In addition, more than 439,000 Californians exhausted their unemployment benefits in mid-June. The state also lost jobs in seven sectors this quarter including: leisure and hospitality, manufacturing, and financial services. The biggest losses were in construction and trade (down 4,300), and transportation and utilities (down 4,400). One region reeling from the downturn is the East Bay, which lost 6,400 payroll jobs over the past year while the San Francisco Bay Area as a whole gained 4,900 jobs.

Some positive news is California's stubborn unemployment rate has fallen to 11.9 percent from 12.5 percent in December 2010. Although California's unemployment rate remains above the national rate of 9.1 percent, this is the first month California's unemployment rate fell below 12 percent since August 2009. In April, the number of Californians that were unemployed fell by 33,000 jobs to 2,143,000. Various forecasts suggest several factors will improve future corporate earnings and potentially add more jobs in California, such as increased overseas sales, improving United States demand, and the Federal Reserve's pledge to keep interest rates close to zero for an extended period.

BOE ISSUES MAY 2011 ECONOMIC PERSPECTIVE



The BOE's May 2011 edition of the Economic Perspective analyzes characteristics of eCommerce sellers and buyers with information regarding their tax compliance relative to eCommerce activity. The report includes data regarding the top 500 internet retailers, their characteristics and customers, sales made to income groups, taxes paid by income group, and more.

Highlights from the May 2011 Economic Perspective include:

- United States Census Bureau data indicate about 60 percent of online sales are electronic.
- The top 10 eCommerce firms of the top 500 largest retail websites, ranked by annual sales, account for 48 percent of all eCommerce sales made.
- The top 50 companies combined comprise 77 percent of sales made by all 500 companies.

- Sales made by eRetailers totaled \$126.4 billion in 2009, about \$660 per American household with an internet connection. The average sale is \$210 per transaction.

- Taxpayers are paying an average of about 1.4 percent of the total use tax liabilities they owe. High-income taxpayers paid an average of four percent of their liabilities.

- Compliance is less than one percent of liabilities for all household income groups other than the highest earning group.

The BOE recently estimated about \$1.1 billion in use tax due goes uncollected each year. Of the total, \$795 million is owed by consumers and \$350 million is unpaid by businesses.

"This report documents the growth and diversity of online retailing, as well as the low rate of tax compliance in this area," said Board Member Yee. "It further illustrates the state's need for additional tools to collect use tax from online retailers on the same terms as applicable for local, 'brick and mortar' outlets."

To obtain a copy of the Economic Perspective, [please click here](#).



2010 ENDS 10-MONTH DECLINE IN TAXABLE SALES

MOST RECENT ESTIMATE FOR FIRST QUARTER OF 2011 SHOWS 8.5 PERCENT INCREASE

Recent Board of Equalization (BOE) data shows improved statewide taxable sales figures, a positive sign of economic recovery. In June, the BOE estimates statewide taxable sales for the first quarter of 2011 rose 8.5 percent over the same period a year earlier, the most significant increase since the 3rd quarter of 2005 (when taxable sales rose 10.1 percent). The estimated level of statewide taxable sales for the first quarter of 2011 is \$117.8 billion.

California's first quarter 2010 taxable sales ended a 10-quarter decline in sales. Taxable sales for that quarter, the latest period for which complete data is available, totaled \$108.6 billion in the first quarter, up \$1.4 billion (or 1.3 percent) from the first quarter of 2009. Previously the latest quarter with positive growth in year-over-year taxable sales was the second quarter of 2007, when sales rose 0.9 percent.

Three of the major contributors to first quarter 2010 taxable sales increases were gasoline station sales (up by 30.6 percent,

totaling \$10.3 billion); clothing and clothing accessory sales (up by 7.9 percent, totaling \$5.8 billion); and general merchandise sales (up by 4 percent, totaling \$10.2 billion).

"The beginning of positive growth in retail sales is indeed a welcome indicator of our state's economic recovery," said Yee. "I hope this growth may be sustained."

Regionally, Bay Area taxable sales rose 2.6% (twice the statewide total), while in Southern California, sales only rose 0.9 percent. Inland counties, such as those in the San Joaquin Valley, declined 0.5 percent.

First quarter 2010 taxable sales for the major cities in the nine-county Bay Area region varied widely. For example, taxable sales in San Jose increased by 8.5 percent, while those in San Francisco rose only 0.1 percent. Taxable sales in Oakland declined by 1.7 percent.

Visit the Board's website to view all [taxable sales in California](#) for the first quarter of 2010.

Year-Over-Year Increase in Q1 2010 First District Counties:

Alameda (3.3%)	Santa Clara (7.6%)
Contra Costa (-1.5%)	Santa Cruz (3.6%)
Colusa (-67.2%)	Solano (-4.6%)
Del Norte (2.3%)	Sonoma (0.5%)
Humboldt (20.4%)	Yolo (-3.2%)
Lake (-2.2%)	
Marin (3.7%)	
Mendocino (0.8%)	
Monterey (3.2%)	
Napa (1.9%)	
Trinity (6.3%)	
San Benito (2.1%)	
San Francisco (0.1%)	
San Luis Obispo (1.7%)	
San Mateo (1.6%)	
Santa Barbara (1.5%)	

HOUSING MARKET CONTINUES TO STRUGGLE

California's depressed housing market continues to contribute to the slow pace of economic recovery. RealtyTrac, a private online tracking site of foreclosures in the United States, reported that May foreclosure filings in California were down nearly 20 percent in April from the same month in 2010. Despite the significant drop, the state still ranks third in the nation for the greatest foreclosure activity, with one out of every 259 homes generating a foreclosure filing. Seven of the 10 metropolitan areas with the highest foreclosure rates continue to be in California.

Single-family home construction continues to lag as the demand for apartments and condominiums will likely increase in the next few years. Moreover, many potential home buyers also are choosing to live closer to work in apartments in response to rising fuel prices. New construction of single-family homes, which account for three-quarters of the housing market, fell 5.1 percent to an annual rate of 394,000. Construction of single-family homes is 30.4 percent lower compared to last year, when a tax credit helped boost sales. Unfortunately, the homebuilder sector will employ fewer people as apartment construction will require

fewer workers. According to a recent report by the University of California, Los Angeles, home prices are forecasted to fall 4.4 percent this year and an additional 0.7 percent next year.

Renters also are experiencing the downside of the real estate market. As a growing number of homeowners compete for apartments, landlords have continued to raise rents. California's homeowner vacancy

rate rose from 1.4 percent to 2.1 percent while the rental vacancy rate rose from 3.7 percent to 6.3 percent, according to data from the 2010 census. At the same time, the average household size in both owner-occupied and rental units rose across the state. Rent and costs of owning a home are on the rise, forcing Californians across all income levels to pay a higher proportion of their income for housing.



STATE BUDGET UPDATE

LEGISLATURE'S MAJORITY VOTE BUDGET VETOED

After vigorous efforts to develop a balanced spending plan relying on both deep cuts and extensions of several temporary tax increases, the Legislature passed a budget bill for the 2011-12 fiscal year on June 15th, by a majority vote in each house. The following day, Governor Jerry Brown vetoed the budget, citing major concerns that it was not a balanced solution with its "billions of borrowing and legal maneuvers that are questionable."



CONTROLLER CEASES PAY FOR LEGISLATORS

On June 21st, Controller John Chiang opined that the budget passed by the Legislature on June 15th was not balanced, prompting him to cut off pay to legislators pursuant to the provisions of Proposition 25 passed by voters statewide last November.

REMAINING \$9.6 BILLION BUDGET GAP CLOSED IN FINAL BUDGET AGREEMENT

The Governor's original budget proposal focused on managing a \$25.4 billion budget deficit with both spending cuts and tax extensions. In February, majority Democrats passed \$10.8 billion in cuts, including reduced payments to disabled and indigent Californians as well as cuts to health and other social safety net programs. Through the spring, Governor Brown continued his efforts to negotiate with legislative Republicans to place a measure on the ballot giving voters the opportunity to extend several temporary taxes. Republicans' votes are necessary to meet the two-thirds vote threshold necessary to consider any revenue increases.

Governor Brown's "**May Revision**" projected additional revenues of \$6.6 billion, mostly driven by improved economic forecasts with increasingly positive signs of California's economic recovery. Nevertheless, the Governor continued to emphasize that the pace of California's economic recovery remains uncertain.

The additional revenue allowed Governor Brown to propose modest reductions in the tax extensions and fewer cuts to education and public safety, including the reversal of a \$2.2 billion reduction in payments to schools. The May Revision also proposed measures to address the state's \$35 billion in accumulated debt over the last ten years, much of it incurred to avoid difficult choices necessary to balance the budget with a sound fiscal framework.

The modified revenue forecasts also



accounted for several changes to the Governor's January revenue proposals. His revised budget proposal continued to apply a temporary 0.25 percent personal income tax surcharge starting in 2012 through 2015, but eliminating it for 2011. He also proposed the modification, rather than the elimination, of enterprise zones in California. Additional revenue proposals include a change to the existing state New Jobs Credit by adopting a new hiring credit for certain small businesses; and a four-year partial exemption from sales and use tax for purchases of tangible property used in manufacturing.

As revenue measures, these proposals are subject to the Legislature's two-thirds vote requirement, which has stalled Governor Brown's proposal to put tax extensions before the voters for approval. The Governor abandoned his efforts to gain Republican support for the proposed

tax extensions, instead agreeing with the Legislature's majority on June 27th that the remaining \$9.6 billion budget gap be closed with higher anticipated revenues of \$4 billion and additional cuts. These additional cuts include: another \$150 million each for the University of California and the California State University, bringing the total budget reductions to each higher education segment to \$650 million; \$450 million in a variety of health programs; \$460 million in cuts to the judicial branch; and postponing \$3 billion in payments to schools.

Governor Brown signed the 2011-12 State Budget after vetoing \$25 million in General Fund spending and applying his line-item veto to special fund and bond fund spending primarily for mass transit projects. Visit the [California Department of Finance](#) for more information about the 2011-12 State Budget.

BOE NEWS

SALES AND USE TAX RATE DECREASES JULY 1, 2011

Effective July 1st, the combined statewide sales and use tax rate decreased from 8.25 percent to 7.25 percent. The one percent decrease generally applies to all taxable transactions in California. In areas where voters have approved additional sales taxes, the total tax rate applied to purchases will be the statewide base tax rate of 7.25 percent, plus any applicable local sales tax.

The temporary one percent tax increase implemented in April 2009 expired on June 30, 2011. Check the BOE website for a listing of the [new tax rates](#).



BOARD OF EQUALIZATION RECEIVES 2011 BEST OF CALIFORNIA GREEN IT AWARD



The BOE received the 2011 Best of California Green Award from the Center for Digital Government's "Best of California" for the eFile Transition Project. The initiative successfully motivated 80 percent of the state's 900,000 sales and use taxpayers to efile within an 18-month period. The project transitioned thousands of taxpayers from filing paper returns to filing electronically, saving the state budget operating costs of more than \$3 million.

The Green IT Award was announced on May 9 in Sacramento at the Government Technology-West 2011 Conference. The Green IT Award recognizes sustainability in government operation and public service delivery by using information technology and conservation.



STATE TAX RELIEF FOR TSUNAMI WAVES

In April, the Franchise Tax Board (FTB) announced special tax relief for California taxpayers affected by the tsunami waves in the federally-declared disaster areas. The President declared a major disaster for Del Norte and Santa Cruz counties from the tsunami waves resulting from the March 11, 2011, earthquake in Japan.

Special tax rules apply to disaster losses. Affected taxpayers may claim a disaster loss in the year before the disaster occurred by claiming it on their 2010 original tax return if they have not yet filed. Those who have already filed their 2010 state return may still claim a disaster loss with Form 540X, Amended Individual Income Tax Return. The advantage of claiming a disaster loss in the prior year is that the FTB can quickly issue a refund. Taxpayers can wait and claim a disaster loss on the 2011 tax return due next year.



FTB Franchise Tax Board

Taxpayers claiming the disaster loss should write "Tsunami Waves" in red ink at the top of the tax return to alert FTB to expedite the refund. Taxpayers e-filing should follow the software instructions to enter the disaster information.

Disaster losses are reduced by any insurance proceeds or other reimbursements they receive. The following publications

provide guidelines on calculating those losses:

FTB 1034 - Disaster Loss How to Claim a State Tax Deduction

FTB 1001 - Supplemental Guidelines of California Adjustments

IRS 547 - Casualties, Disasters and Thefts

Affected taxpayers can request free copies of state tax returns with FTB 3516, Request for Copy of Tax Return. This form is available online at ftb.ca.gov. The name of the disaster should be printed in red at the top of the request.

Taxpayers are reminded that the BOE also offers emergency relief for those who, as a result of the water surge along the California coast, cannot meet tax filing and payment deadlines. For more information, call the BOE Taxpayer Information Call Center at 1-800-400-7115, or visit the [BOE website](#).

SMALL BUSINESS ASSISTANCE

COUNCIL HELPS SMALL BUSINESSES IN UNDERSERVED COMMUNITIES

The Council on Underserved Communities (CUC) provides the United States Small Business Administration (SBA) with input, advice, and recommendations on strategies to help strengthen competitiveness and sustainability for small businesses in underserved communities. These strategies are aimed at increasing entrepreneurship and technical assistance, creating outreach and training strategies, and educating underserved communities about SBA programs and services.

The CUC focuses on communities and populations that traditionally have faced barriers in accessing credit, capital, and the other tools they need to start and grow businesses. These communities include inner cities and rural areas and may include populations such as women, minorities, veterans, tribal communities, and others. The CUC is part of the SBA's ongoing efforts to expand its reach into underserved communities. While the nation's economic recovery is moving forward, that recovery has been uneven, particularly for socially, economically, and geographically



disadvantaged small business owners.

To help the SBA better address the challenges facing small business owners in underserved communities, the CUC meets regularly and advises the SBA on ways to increase access to capital and promote sustainability, growth, and job creation. Board Member Yee emphasizes, "The input of existing and aspiring small business owners and operators is vital to the effectiveness of the SBA's programs." Please email your comments or concerns to underservedcouncil@sba.gov.

MICROLOAN PROGRAM FOR SMALL BUSINESSES

The Microloan Program provides small, short-term loans to small businesses for working capital, purchases of inventory, furniture, fixtures, and machinery or equipment. The SBA makes funds available to specially designated intermediary lenders, which are nonprofit community-based organizations with experience in lending as well as in management and technical assistance. These intermediaries make loans to eligible borrowers.

The maximum loan amount is \$50,000, but the average microloan is about \$13,000. The maximum term allowed for a microloan is six years. Interest rates vary, depending on the intermediary lender and costs to the intermediary from the United States Treasury.

For more information on microloans, contact an intermediary lender in your area by checking the [Microloan Intermediary List](#) or your local [SBA District Office](#).

SBA INTRODUCES NEW MOBILE APPLICATION



The SBA has introduced a new mobile app for smart phones to help connect business owners and entrepreneurs alike with SBA district office staff and SBA-affiliated counselors and mentors who can provide free, personalized small business assistance. The app will help answer questions such as: How do I start a business? Where can I go in my area to get free help with writing a business plan? Where do I begin finding funding for my business? This mobile app also features a built-in startup cost calculator to help estimate the costs associated with getting a business off the ground, plus an SBA partner locator to help users find SBA offices, Small Business Development Centers, Women's Business Centers, and information about the SBA's Service Corps of Retired Executives (SCORE) program.

Click [here](#) to download the free mobile application from the SBA website.



LEGISLATIVE HIGHLIGHTS

Board Member Yee supports numerous bills in the Legislature intended to assist California businesses and taxpayers as well as bills that expand economic opportunities for all Californians. Of note this quarter are three bills for which Ms. Yee actively expressed her support, as follows:



- Senate Bill 234 (Hancock) was initiated and sponsored by Board Member Yee and would level the playing field for California businesses by expanding the state's ability to require out-of-state retailers to collect use tax (the equivalent of sales tax) on in-state sales made by online and other remote sellers. The provisions of SB 234 were amended into AB 28 (Blumenfeld) of the First Extraordinary Session, a budget-related bill that Governor Brown signed into law on June 29th. ABX1 28 also incorporated provisions formerly contained in AB 153 (Skinner) and AB 155 (Calderon), thereby expanding the imposition of the tax collection duty to online retailers that have affiliate agreements with California entities or have agreements with a member of the retailer's commonly controlled group or combined controlled group that provide for that member to perform services in California in connection with merchandise sold by the retailer.

ABX1 28, commonly referred to as the nexus bill, has received much media attention since its enactment. Some links to recent articles of this legislation follow:

Internet sellers must collect tax, like it or not
Amazon says it won't collect sales tax; state says it'll send a bill then
Amazon, Overstock thumb nose at California tax
Amazon.com fights California tax collectors
Amazon severs ties to Calif. affiliates in sales tax fight
Amazon, California play waiting game in sales tax fight
Amazon affiliates in California brace for impact after Seattle company sever ties
Amazon breaks with thousands of small firms

Since this bill was signed, Amazon.com and Overstock.com have severed their relationships with affiliates in California. Regardless, ABX1 28 took effect July 1st, whereby under its "long-arm" nexus statutory provisions, all out-of-state retailers are obligated to collect and report and pay tax on sales made to California consumers of tangible personal property subject to tax.

Ms. Yee notes, "How many more Main Street businesses were going to shutter before California leveled the playing field for out-of-state retailers to collect and pay tax on sales made to consumers in California? I am pleased the Governor recognized the unfair competitive disadvantage of our small

businesses and retailers physically located in California." California loses \$1.2 billion in use tax not collected and paid each year, an amount Ms. Yee observes is about the total of the recent budget reductions to the University of California and the California State University.

The BOE issued a **special notice** providing guidance on the obligations of out-of-state retailers to register with the BOE and to collect use tax on sales made to California residents. Visit www.boe.ca.gov to view this special notice. The BOE also will be sending letters shortly to potential out-of-state registrant retailers.

- Assembly Bill 15 (Hill) of the First Extraordinary Session was supported by Ms. Yee, clarifying the existing property tax exclusion for solar projects being contemplated by the solar industry that involve, among other things, owner-builder arrangements that are emerging as solar projects expand beyond the commonly recognized construction and installation of solar panels on residential housing. Ms. Yee cited this bill as critical for solar investment in California, stating, "The solar industry plans to invest significant capital, create jobs, and provide renewable energy in the Golden State. ABX1 15 facilitates these much needed investments to spur our economy and to expand California's renewable sources of energy."



- Senate Bill 104 (Steinberg) would have enacted the Fair Treatment for Farm Workers Act. This bill would have authorized agricultural workers to become organized and select collective bargaining representation by submitting representation cards signed by a majority of the bargaining unit a petition to the Agricultural Labor Relations Board, a process known as "card check." This alternative process is available to all other workers covered by state collective bargaining laws. Governor Brown vetoed SB 104 on June 29th. In his veto message, he reminded all of his signing the nation's first agricultural labor relations act (ALRA) in 1975 as California's governor then; stated the far-reaching proposals of SB 104 that alter the guiding principals of the ALRA may not be justified; and committed to engage in discussions to accomplish the appropriate changes for ensuring the rights of farm workers in a fair and just way.

In her letter of support, Ms. Yee observed, "Farm workers face some of the most adverse and perilous barriers to organizing, and many are from some of the least educated and most disadvantaged backgrounds. Because these workers are largely among the most vulnerable members of the workforce, many fear potential retaliation or other negative consequences for seeking to exercise their collective bargaining rights."

In addition, the BOE is actively pursuing key consumer/taxpayer legislation. These measures include AB 188 (Block) that would extend the disabled veterans' exemption to unmarried surviving spouses; SB 805 (Committee on Veterans Affairs) that would continue the sales tax exemption for qualified itinerant veterans; AB 1352 (Logue) that would enable the BOE to cancel interest for late payment of taxes caused by extraordinary circumstances; and SB 421 (Correa) that would provide the interest rate on refunds be consistent with that for past due liabilities.



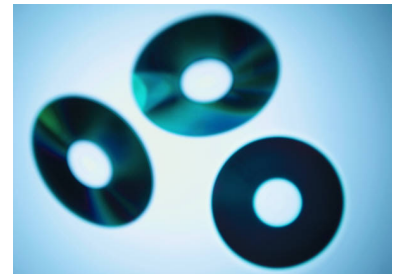
FROM RECENT BOARD MEETINGS

NORTEL CASE DOES NOT AFFECT SALES TAX ON OFF-THE-SHELF SOFTWARE

At its May Board meeting, the Board of Equalization authorized an **amendment** to make its current regulations consistent with a recent California Court of Appeal decision holding that sales tax does not apply to interests in patents and copyrights transferred with prewritten (or canned) software in a technology transfer agreement (TTA).

This amendment does not affect the way sales tax is applied to the typical off-the-shelf retail sale of canned, mass-marketed software because the typical retailer does not hold any copyright or patent interests in the software. The change only clarifies that when the holder of copyrights or patents also sells that intellectual property to another in a technology transfer agreement that includes the transfer of software, the amount charged for the copyrights or patents is excluded from the application of sales tax.

The California Court of Appeal in January 2011 filed an opinion in Nortel Networks, Inc.



v. State Board of Equalization that expressly provides that: "To the extent that regulation 1507, subdivision (a)(1) excludes from the definition of a TTA prewritten computer programs that are subject to a copyright or patent, the regulation exceeds the scope of the Board's authority and does not effectuate the purpose of the TTA statutes: It is, for these reasons, invalid." On April 27, 2011, the California Supreme Court issued a notice denying the Board's Petition for Review of the Court of Appeal's opinion.

BOARD SETS 2011 VALUES OF UNITARY PROPERTY OF UTILITY COMPANIES AND RAILROADS

Also at its May meeting, the Board established the 2011 unitary values of privately owned public utilities and railroads in California at \$85.5 billion. The values are up more than \$5 billion over those adopted by the Board last year. Local governments will collect over \$63 million more in tax, at an estimated \$947.3 million in revenue (including penalties) over the next fiscal year based on these values.

These values were set for 413 companies with property in California, including telephone companies (long distance, local, and wireless), gas and electric companies, railroads and inter-county pipelines. These values cover only these companies' unitary property, which refers to property owned or used by these companies that are necessary and essential in their primary service or function of that assessee. Non-unitary properties of these companies will be valued by the Board separately in June.

While most properties are assessed by

county officials, privately-held public utilities and railroads are assessed statewide by the Board. These properties are not subject to the provisions of Proposition 13 and thus are assessed annually by the Board at their fair market value as of January 1st of each year. By law, the values for these unitary properties must be set by the Board before May 31st each year.

After the Board sets the values, the values are then allocated by the BOE to the counties where the properties are located. Each county then collects property taxes based upon the allocated values. The taxes are levied and collected in the same manner and at the same rate as for locally assessed property. The property taxes help support county governments, cities, special districts, and schools.

Visit the link for more information on the **BOE's State Assessed Properties Program**.

OFFER-IN-COMPROMISE PROGRAM FOR OPEN BUSINESSES

BOE staff gave a presentation on the Offer in Compromise (OIC) Open Business Program at the Board's May meeting. The presentation was an overview of the program, explaining how open businesses OICs are evaluated. Board Member Yee commented, "This Board has been referring a good number of our appeals matters to the OIC Program once we have made a final determination. I appreciate the presentation about how the Program works with open businesses."

The OIC program allows taxpayers or fee payers to clear the tax or fee liability by offering to pay less than what is owed, if the amount offered represents the most the BOE can expect to collect within a reasonable period of time, after considering their ability to pay and other facts and circumstances.

Before 2009, the OIC Program was only available to closed accounts with a finalized liability meeting certain requirements. Effective January 1, 2009 through January 1, 2013, the OIC Program also is available to open and active businesses that have not collected tax reimbursements for the taxes, fees, or surcharges owed. The expanded OIC Program also extends to successor liability and consumer use tax liability amounts.

BOE staff clarified that offers under the OIC Open Business Program will be evaluated similarly as those from closed businesses. Staff will consider the business' monthly disposable income, the available assets, and equity, based on all the circumstances, to determine whether the offer is acceptable.

For taxpayers who have liabilities with multiple state tax agencies, it may be helpful to use the Multi-Agency application (Multi-Agency Form for OIC). This application can be used to apply for OIC programs with the BOE, the Employment Development Department, and the Franchise Tax Board without duplication of forms or other paperwork. If you use the Multi-Agency application, you will still need to negotiate separate payment arrangements with each agency. For OIC applications for individuals (form [BOE-490](#)) or other entities (form [BOE-490-C](#)), visit the [Offer in Compromise website](#). For more specific information about the BOE's program, contact the OIC Section at (916) 322-7131.

FEATURES

PENSION REFORM

In March, Governor Brown proposed a 12-point pension reform plan. The first seven proposals relating to tightening pension rules are contained in pending legislation. The remaining five proposals relating to more systemic changes are still under development.

While Governor Brown and legislators continue to address rising pension costs, many cities in California are working to implement changes in their own retirement plans. The City Council of Brea recently voted to cut pensions for future hires and require current employees to contribute towards their retirement. The cities of Los Angeles and San Diego negotiated agreements this year that will add employee contributions toward their retirement and health care plans and lower benefits for future workers. San Francisco Mayor Ed Lee has proposed a series of changes including capping pension benefits, raising retirement ages, and requiring a higher contribution from workers. San Jose Mayor Chuck Reed has proposed similar changes and led the San Jose City Council in declaring a fiscal emergency.



Pending Proposals:

1. Eliminate the purchase of "airtime" (additional service credit) for all current and future employees.
2. Prohibit pension holidays (suspension of employer and/or employee contributions).
3. Prohibit employers from making employee pension contributions.
4. Prohibit retroactive pension increases.
5. Prohibit pension spiking by using the highest average annual compensation over a consecutive 36-month period of employment.
6. Prohibit pension spiking by defining compensation as only the normal rate of pay or base pay.
7. Prohibit payment of pension benefits to those who have committed a felony related to their employment.

Proposals Still Under Development:

8. Impose pension benefit caps.
9. Improve the governance of the retirement board.
10. Limit post-retirement public employment.
11. Enact a hybrid option
12. Address unfunded liability of the California State Teachers' Retirement System.

Recognizing the budget challenges local governments are experiencing, Board Member Yee offered her perspective on the recent emergency declaration by the San Jose City Council in the following op-ed published in the San Jose Mercury News:

OPINION: CON: REED'S PROPOSAL IS BASED ON FEAR RATHER THAN LONG-TERM, SUSTAINABLE REFORMS

BY BETTY T. YEE

SPECIAL TO THE MERCURY NEWS MAY 21, 2011

Almost 80 years ago, in the depths of our nation's greatest financial crisis, Franklin Delano Roosevelt told us on the day of his inauguration, "the only thing we have to fear is fear itself." Now, with signs of a new financial crisis in the city of San Jose, Mayor Chuck Reed is taking the opposite approach. His move to declare a fiscal and public safety emergency risks precipitous, short-term action out of fear rather than long-term reforms. Long-term, sustainable reforms that will support a quality workforce and quality public services are called for during these difficult times.

As a legal matter, emergencies are unforeseen situations that call for immediate action. San Jose's unfunded pension and retiree health care liabilities are a long-term problem, similar to those faced by the state of California and other public agencies. Emergency declarations allow for short-term actions to address unforeseen crises, providing a restoration to normal conditions to permit traditional problem-solving and policymaking actions to continue.

There is no law that would allow Mayor Reed to assume emergency powers to address underfunded future liabilities. Other cities, such as San Diego, have considered declaring a fiscal state of emergency but concluded it was not a legal option. Why? Because the laws that allow for declarations of emergencies do not grant cities emergency powers to resolve structural budget deficits.

As a member of the State Board of Equalization, I have broad responsibilities and experience with state and local revenue and finance. My principal concern with Reed's proposed emergency declaration to address San Jose's unfunded liabilities is that it would provide no additional legal authority, and it would likely be turned back by the courts. I am equally concerned about its impact on public confidence in the city of San Jose.

Using an emergency declaration to address structural financial challenges is a strategy to abrogate existing legal and



contractual commitments -- much like declaring bankruptcy. Used hastily, this type of precipitous action sends a message that San Jose cannot be relied on over time to meet its long-term obligations and commitments, contributing additional uncertainty during a time of fragile economic recovery. Attempting this short cut will likely also erode confidence in the city's elected leaders.

This type of action can reverberate with unintended economic consequences. How will it affect the city's credit rating and the interest rate it has to pay to its bondholders? What will it mean for long-term infrastructure commitments important to businesses seeking to locate or grow in San Jose? What will it mean for incomes of workers and consumers who support local businesses? Will reduced public confidence contribute to another housing shock and depressed home values?

Just two weeks ago, the city manager presented a budget that "maintains the sound financial discipline" of the past nine years, and no changes in the city's financial future have been announced since then. Meanwhile, city officials have continued measures to address employment costs in the city budget, such as conferring with public employee unions who have offered concessions to bring budgets into balance. Other long-term reforms to the city's two independent pension systems are reasonable measures to examine.

Structural reform is no easy task, and there are no short-term fixes that will make reforms easier. Moreover, no urgent action can create a risk-free future for government, businesses, or workers. Sustainable reforms to manage economic risk for all require calm leadership and sound fiscal management.

IN THE COMMUNITY

As a public official, Board Member Yee participates in events in support of numerous community organizations and business groups. Her relationship with these organizations helps to deepen her understanding of the needs and concerns of her constituents.

41ST ANNUAL SAN FRANCISCO PRIDE CELEBRATION AND PARADE



Alice B. Toklas Breakfast



Celebrating Equality



41st Annual San Francisco Pride Parade

In Pride We Trust was the theme for the 2011 San Francisco PRIDE Celebration and Parade held June 26th. A life-long advocate for equality, Ms. Yee joined community leaders and elected officials at the Alice B. Toklas LGBT Democratic Club's annual PRIDE

breakfast. She then met friends, community leaders, and organizations in the march down Market Street before a crowd of thousands demonstrating her friendship, support and solidarity with the LGBT community. "As the most diverse underserved and under-

represented community, I am confident the LGBT community will succeed in attaining true equality with full rights and benefits," asserted Ms. Yee.

OAKLAND ASIAN CULTURAL CENTER BREAKING GROUND CELEBRATION



On May 25th, Ms. Yee joined other Asian and Pacific Islander (API) elected officials and community leaders in celebrating the many successes of their community being represented in elective office at all levels of government. The event was hosted by the

Honorable Jean Quan, Oakland's first elected Chinese American mayor; was emceed by the Honorable Mona Pasquil, former Acting California Lieutenant Governor and currently serving as Appointments Advisor to Governor Jerry Brown; and featured

prominent API speakers including William Wong, a prominent political journalist in the San Francisco Bay Area. Ms. Yee remarked, "I am so honored and proud to join my fellow Asian Americans in the Bay Area elected family in tonight's celebration."

CHINESE HERB TRADE ASSOCIATION OF AMERICA INAUGURATION CEREMONY



Board Member Yee Addresses Guests



Newly Sworn in Board of Directors

Ms. Yee was honored to administer the oath of office to the newly appointed Board of Directors of the Chinese Herb Trade Association of America in San Francisco on June 24th. This active professional organization works to advance traditional Chinese medicine into the mainstream of Western medicine by providing support and assistance to Chinese medicine practitioners and related businesses. Celebrating the

inauguration of the Association board of directors, Ms. Yee acknowledged, "The emergence of the Chinese Herb Trade Association of America from the Chinese Herb Trade Association of San Francisco highlights the increasing prominence and acceptance of the practice of Chinese herbal medicine not only in the San Francisco Bay Area but across the nation."

ROTARY CLUB OF SAN JOSE



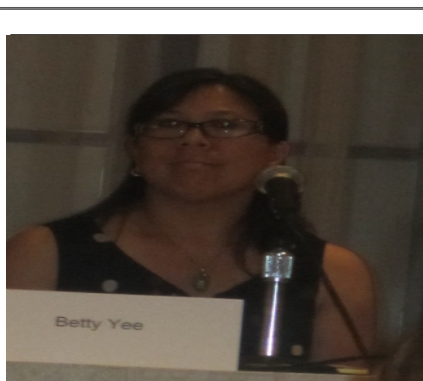
Board Member Yee Discusses the Economy

On June 1st, Ms. Yee addressed the Rotary Club of San Jose with perspectives on California's economy, the South Bay regional economy, and budget challenges. Members of this active service organization include leading figures in business, government, and philanthropy in the San Jose region. Ms. Yee notes, "Although hit hard by the recession, the San Jose and Silicon Valley region provides tremendous hope for California's economic recovery, as the home of technology innovation and venture capital."

LOS ANGELES COUNTY BAR ASSOCIATION



LA County Bar Association



Board Member Yee Addresses Attendees

On June 20th, Ms. Yee introduced the session and presentation on practice tips and appeals before the Board of Equalization to attendees of the Los Angeles County Bar Association conference. This session featured an overview for current and prospective practitioners who represent taxpayers in

appeals matters before the Board. "I am honored to join top government officials and leading tax practitioners to discuss current state and local tax developments, including a discussion of the diverse array of petitioners and appellants who appear before the Board," Ms. Yee stated.

EASTER PANCAKE BREAKFAST WITH THE WA SUNG COMMUNITY SERVICE CLUB

On Easter Sunday, April 24th, Ms. Yee attended the 55th Annual Easter Pancake Breakfast hosted by the Wa Sung Community Service Club in Oakland Chinatown. For over half a century, this organization has provided critical community services to the Chinese American community while at the same time fostering goodwill and cultural understanding among the diverse residents of the East Bay region. Ms. Yee joined Oakland Mayor Jean Quan and other community leaders to applaud the longstanding commitment of the Wa Sung Community Service Club in providing educational and charitable services to Oakland's Chinese American community. "It is truly an honor to be standing here and meeting generations of Chinese Americans in Oakland whose lives have been touched and continue to be touched by the services and programs of Wa Sung," Ms. Yee commented.

CAL ALUMNI ASSOCIATION (CAA) AT UC BERKELEY EQUITY SCHOLARSHIP RECEPTION

On May 19th, Ms. Yee, in her volunteer capacity as Chair of the Scholarship Development Committee for the Cal Alumni Association (CAA) at UC Berkeley, spoke at a reception in Los Angeles about CAA's newest scholarship, the Equity Scholarship. The Equity Scholarship was established in 2008 to provide an economic incentive for California's high-achieving, underrepresented minority students to attend Cal. To help

close the financial gap for those students, CAA awards them \$5,000 per academic year for up to four years. The reception featured remarks from current Equity Scholar Nayely Chavez from Pacoima, who is studying public health at Cal. Ms. Yee proudly states, "I am heartened that CAA continues to stay the course for ensuring Cal reflects and represents the rich diversity of California."



Equity Scholar Nayely Chavez



Cal Alumni Association (CAA) Members



Board Member Yee Addresses Attendees

CAPITOL ACADEMY 120 PROGRAM

On June 27th, Ms. Yee addressed participants of the Capitol Academy 120 Program hosted by the Asian and Pacific Islander (API) Legislative Caucus Institute. This organization provides free training for local API elected officials interested in pursuing elected office at the state level. She shared her personal experiences about the challenges and successes of running for the State Board of Equalization, emphasizing, "Stay true to yourself as a candidate and as an elected official. This is the best compass for how best to represent and serve your constituents, even when they do not always agree with you."



SILICON VALLEY WOMEN AND GIRLS' LEADERSHIP SUMMIT

On May 26th, Ms. Yee participated in the Silicon Valley Women and Girls' Leadership Summit at the Cesar Chavez Academy in East Palo Alto. Convened annually by the Silicon Valley Leadership Group and high-tech company sponsors, the Summit connected the girls attending the Academy with women leaders and executives in business, politics, and the media to engage in discussions and conversations about a range of issues, including overcoming family and personal economic and social challenges, pursuing higher educational opportunities, addressing self-image and self-esteem issues, and skills and traits to navigate the path to success. California Attorney General Kamala Harris delivered the inspirational keynote address about persevering and never giving up. Moved by her experience at the Summit, Ms. Yee comments, "Principal Amika Guillaume and the girls of the Academy provided the most inspiration during the day with their



mantra, 'I am strong. I am important. I will give back.' I have no doubts the girls at the Cesar Chavez Academy who aspire to be veterinarians, chefs, business owners, scientists, and other professionals will persevere against all odds, succeed, and give back to their communities."

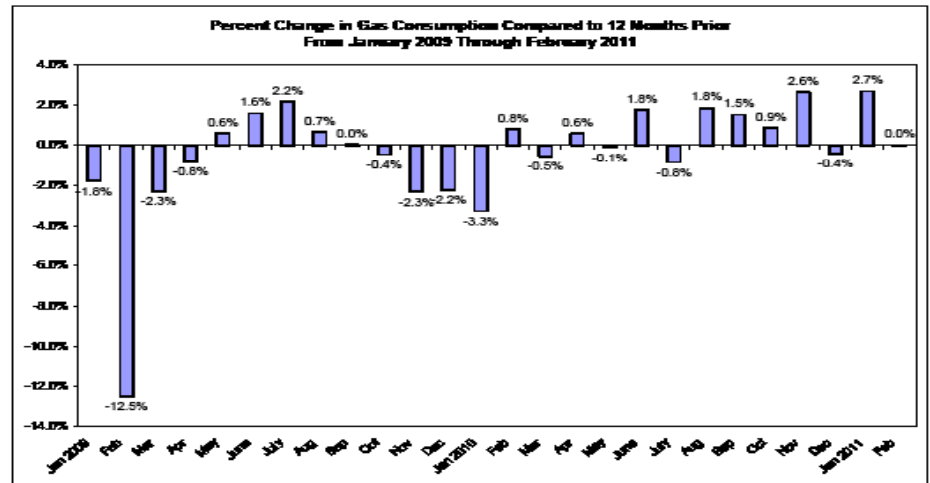
GAS CONSUMPTION WATCH

CALIFORNIA GASOLINE DEMAND FLAT

AVERAGE PRICE OF DIESEL IN CALIFORNIA JUMPED 86 CENTS IN FEBRUARY 2011

California's gasoline consumption remained flat in February 2011 at 1.131 billion gallons, compared to 1.131 billion gallons in February 2010. In February 2011, the average price of gasoline at the pump in California was up 59 cents to \$3.58 a gallon, a 20 percent increase compared to the average price of \$2.99 per gallon in February 2010. Nationally, the average price of gasoline in February 2011 was up 56 cents to \$3.26 per gallon, a 21 percent increase compared to the United States average price of \$2.70 per gallon in February 2010.

In February 2011, California's diesel consumption totaled 176.5 million gallons, 19.1 million gallons less than the 195.6 million gallons consumed in February 2010 or a decrease of 9.8 percent. However, the February 2010 figures include an additional 11.3 million gallons of diesel fuel due to an audit assessment of prior monthly reporting periods. If the audit assessment of 11.3 million gallons in February 2010 is excluded from the calculations, diesel consumption



still decreased by 4.2 percent in February 2011. California's diesel fuel figures are net consumption that includes the State Board of Equalization's audit assessments, refunds, amended and late tax returns and the California State Controller's Office refunds.

The average price of diesel in California rose 86 cents to \$3.80 per gallon in February

2011, a 29 percent increase compared to February 2010's average price of \$2.94 per gallon. Nationally, the average price for diesel rose 28 percent in February 2011 to \$3.58 per gallon, up 79 cents compared to last year in February when the United States average price for diesel was \$2.79 per gallon.

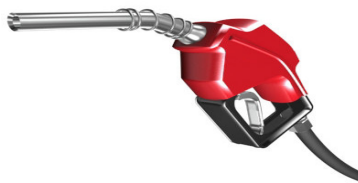
CALIFORNIA CONSUMPTION FELL 2.7% IN MARCH, DIESEL DROPPED 6.9%

CALIFORNIA'S AVERAGE PRICE FOR BOTH GAS AND DIESEL HIT \$4 IN MARCH

California's gasoline consumption declined 2.7 percent in March and declined 0.1 percent in the first quarter. Diesel fuel consumption declined 6.9 percent in March and declined 5.3 percent in the first quarter.

In March, gasoline consumption decreased 2.7 percent to 1.24 billion gallons of gasoline compared to 1.27 billion gallons of gasoline in March last year. In California, the average price of a gallon of gasoline rose 90 cents to \$4.00 in March, a 29 percent increase compared to the average price of \$3.10 per gallon of gasoline last year in March. Nationally, the average price of a gallon of gasoline was up 79 cents to \$3.62 per gallon in March, a 28 percent increase over the average price of a gallon of gasoline of \$2.82 in March last year.

Gasoline consumption in the first quarter declined 0.1 percent with a total of 3.57 billion gallons of gasoline compared to 3.58 billion gallons of gasoline in the first quarter last year. In California, the average price of



gasoline per gallon rose 60 cents to \$3.66 in the first quarter, a 20 percent increase over last year's average price of \$3.05 per gallon in the first quarter. Nationally, the average price of gasoline rose 58 cents to \$3.34 in the first quarter, a 21 percent increase over last year's average price of \$2.76 per gallon of gasoline in the first quarter.

In March, diesel consumption totaled 218.7 million gallons, a decrease of 6.9 percent compared to the total of 234.9 million gallons of diesel in March last year. In California, the average price of a gallon of diesel fuel was up \$1.13 to \$4.19 per gallon in March, a 37 percent increase over the average price of a gallon of diesel of \$3.06

last March. Nationally, the average price of a gallon of diesel was up 99 cents to \$3.91 in March, a 34 percent increase over the average price of a gallon of diesel of \$2.92 last March.

Diesel consumption in the first quarter decreased 5.3 percent to 586 million gallons compared to 619 million gallons in the first quarter last year. In California, the average price of diesel fuel in the first quarter rose 85 cents to \$3.85, a 28 percent increase compared to \$3.00 price per gallon of diesel last year in the first quarter. Nationally, the average price of diesel fuel in the first quarter was \$3.63, a 27 percent increase over the last year's first quarter average price of \$2.85 per gallon of diesel.

Click the link to see all [monthly, quarterly, and annual reports](#).

Click the link to see [taxable gasoline gallons](#).

Click the link to see [taxable diesel gallons](#).

UPCOMING EVENTS

BASIC SALES AND USE TAX CLASSES

The following basic sales and use tax classes are being offered free of charge in the First Equalization District from July 2011 through September 2011. Please visit www.boe.ca.gov/cgi-bin/tax_class.cgi to obtain detailed information about workshop times and locations.

July 13:	Basic Sales and Use Tax Seminar in Chinese (Oakland)
July 19:	Basic Sales and Use Tax Seminar in English (Oakland)
July 20:	Basic Sales and Use Tax Seminar in English (Santa Rosa)
July 21:	Basic Sales and Use Tax Seminar in Spanish (Oakland)
July 21:	Basic Sales and Use Tax Seminar in English (Salinas)
July 21:	Basic Sales and Use Tax Seminar in Spanish (Santa Rosa)
August 4:	Basic Sales and Use Tax Seminar in English (San Francisco)
August 10:	Basic Sales and Use Tax Seminar in Spanish (San Jose)
August 18:	Basic Sales and Use Tax Seminar in English (San Jose)
September 1:	Basic Sales and Use Tax Seminar in English (San Francisco)
September 15:	Basic Sales and Use Tax Seminar in English (San Jose)